



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**Region 6**

**1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733**

February 16, 2012

Mr. Gary D. Goeke  
Chief, Environmental Assessment Section  
Leasing and Environment (MS 5410)  
Bureau of Ocean Energy Management (BOEM)  
1201 Elmwood Park Boulevard  
New Orleans, LA 70133-2394

Dear Mr. Goeke:

In accordance with our responsibilities under Section 309 of the Clean Air Act (CAA), the National Environmental Policy Act (NEPA), and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas and Region 4 office in Atlanta, Georgia, has completed its review of the Final Supplemental Environmental Impact Statement (FSEIS) prepared by U.S. Department of the Interior, Bureau of Ocean Energy Management (BOEM), Gulf of Mexico (GOM) Outer Continental Shelf (OCS) Region for the Central Planning Area (CPA) Lease Sale 216/222. EPA Region 6 is participating in the NEPA process as a Cooperating Agency with the BOEM in accordance with the requirements of the CEQ regulations.

EPA Region 6 and Region 4 provided comments to the Draft Supplemental EIS (DSEIS) dated August 18, 2011. EPA rated the DSEIS as Environmental Concerns - Insufficient Information (EC-2) due to concerns with, but not limited to, alternatives/lease stipulations, impacts from and cleanup response for catastrophic spills, dredged material disposal, air quality, and environmental justice. However, concerns remain with alternatives/lease stipulations, air quality, and environmental justice.

Alternatives

On page ix of the Summary, the FSEIS states that "Application of lease stipulations will be considered by the Assistant Secretary of the Interior for Land and Minerals (ASLM). The inclusion of the stipulations as part of the analysis of the proposed action does not ensure that the ASLM will make a decision to apply the stipulations to leases that may result from a proposed lease sale, nor does it preclude minor modifications in wording during subsequent steps in the prelease process if comments indicate changes are necessary or if conditions warrant. Any stipulations or mitigation requirements to be included in a lease sale will be described in the Final Notice of Sale. Mitigation measures in the form of lease stipulations are added to the lease terms and are therefore enforceable as part of the lease." EPA remains somewhat unclear on why mitigation stipulations are not specified for the preferred alternative, but are listed as a mitigation strategy for the proposed action. EPA recommends that these stipulations be included in the proposed alternative allowing the public to adequately evaluate the proposed action and the proposed mitigation for that action. Alternatively, BOEM might provide additional information in the FSEIS describing the process by which the ASLM adopts these mitigation

stipulations for proposed lease sales and how and when the public would be able to provide comments on these stipulations added to the lease.

Although BOEM states in its response to EPA comments (USEPA-4) that it feels that issues are clearly defined and that information to determine a reasoned choice among the alternatives is clear, EPA again recommends that BOEM include a summary table in the FSEIS that includes the potential effects from the proposed action on all resources discussed in the document. The table could facilitate a better understanding of the alternatives, particularly distinctions between alternatives, and could provide a comparative evaluation of alternatives in a manner that sharply defines issues for the decision-maker and the public as required by NEPA.

### Coastal Programs and Impacts

Generally, BOEM responses to the issues raised in relation to coastal programs and impacts are sufficient. In fact, one response (USEPA-9) provides a clear and conclusive evaluation regarding the barrier berms constructed to the east and west of the mouth of the Mississippi River in response to the Deepwater Horizon oil spill: "Given that current data indicate that the emergency berms in Louisiana were not effective in minimizing impacts from the DWH event and that the Presidential Oil Spill Commission counseled against future use of such berms (Oil Spill Commission, 2011a), BOEM does not expect that similar berms would be used as a response measure if a low-probability catastrophic event were to occur in the future." As we noted in previous comments, this information and conclusion was not included in previous post-oil spill OCS lease sale NEPA documents and we recommend that this information be included in subsequent Gulf of Mexico OCS lease sale NEPA evaluations.

### Air Quality

The FSEIS does not appear to explicitly address air quality mitigation measures. EPA again recommends that the FSEIS not rely upon compliance with the existing BOEM regulations as adequate to ensure that the proposed projects will not significantly impact the NAAQS, nor as the only proposed air quality mitigation contemplated by the FSEIS. BOEM's response to our air quality mitigation comment (USEPA-23) states that "air quality regulations require appropriate air quality mitigation measures such as fuel use certifications and run time documentation for activities such as fuel combustion or flaring." Fuel use certificates and run time documentation are typically considered recordkeeping requirements, rather than mitigation measures, which reduce air quality impacts. Examples of readily available mitigation might include use of ultra-low sulfur fuels or use of available retrofit kits to upgrade older model year engines that do not meet IMO or EPA Tier standards for nitrogen oxides and hydrocarbons.

Identification of readily available mitigation would also be consistent with the FSEIS statement that all OCS activities are conducted in a safe and "pollution free manner", consistent with 43 USC 1347 (b) of the OCSLA, which requires that "all operations use the Best Available and Safest Technology (BAST) whenever practical" (USEPS-26). EPA recommends the FSEIS identify appropriate air quality mitigation measures for common sources of criteria pollutants, such as fuel combustion, flaring, and VOC transfer, as well as include a discussion of mitigation

and BAST for operations that are below the 2000-4000 tons per year emissions exemption threshold.

### Environmental Justice

The FSEIS offers an improved analysis of potential environmental justice impacts. One remaining concern is that the FSEIS concludes that, with the exception of an accident such as the DWH event, the impact of oil spills, vessel collisions, and drilling fluid spills would not be of a duration long enough to have adverse and disproportionate long-term effects for low-income and minority communities in the analysis area. The FSEIS should provide information regarding how the potential length of time and the impact that an accident would have on low-income and minority communities has been determined. Such accidents and their impacts could very well be more frequent, of longer duration, and of greater negative impact than is envisioned in the FSEIS. In this case, it appears that these overburdened populations would be disproportionately and adversely affected.

EPA appreciates the opportunity to review the FSEIS. If you have any questions or concerns, please contact John MacFarlane of my staff at [macfarlane.john@epa.gov](mailto:macfarlane.john@epa.gov) or 214-665-7491 for assistance.

Sincerely,



Rhonda Smith  
Chief, Office of Planning  
and Coordination